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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
 REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

CNVG-007CON2In re Application of: **WHAYNE, JAMES G.**Application No.: **10/613,593**Filed: **July 2, 2003**For: **DISTAL ANASTOMOSIS SYSTEM**

The owner*, **Converge Medical, Inc.**, of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent No. 6,858,035** as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior** patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior** patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said **prior** patent later:

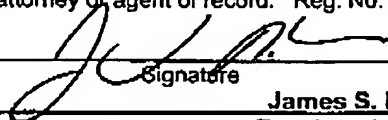
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2. ☒ The undersigned is an attorney or agent of record. Reg. No. **53,393**



 Signature

 James S. Nolan
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(650) 833-7774
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- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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